

EDITH GION

IBLA 81-777

Decided August 3, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claims abandoned and void. CA MC 48114 and CA MC 48115.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Edith Gion, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Edith Gion appeals from the May 29, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared the unpatented Konociti #1 and #3 placer mining claims, CA MC 48114 and CA MC 48115, abandoned and void for failure to file timely evidence of assessment work or a notice of intent to hold the claims on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the implementing regulation in 43 CFR 3833.2-1(a).

Appellant states the annual assessment work was performed and duly recorded in the records of Lake County, California.

[1] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each calendar year thereafter. Failure to so file is statutorily considered conclusively to constitute abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or a notice of intent to hold the claims, BLM properly held the claims to have been abandoned. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse her from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements of FLPMA rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] Accomplishment of a proper state or county recording does not relieve appellant from filing with BLM under the requirements of FLPMA or the implementing regulations. What 43 CFR 3833.4(b) says is that a defective or untimely state or county filing does not, of itself, constitute a failure to file under FLPMA. Neither does a valid or timely filing with a state or county constitute a FLPMA filing. These are two separate and distinct filing requirements, and compliance with the one does not constitute compliance with the other.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

